

class. The Centerville Schools have a combined teaching staff of 22 persons.

3. D.S. suffered a loss of hearing at age five as a result of meningitis. She exhibits a bilateral sensori-neural hearing loss of a severe to profound degree.

4. In January, 1983, D.S. was enrolled in a preschool program at the Montana School for the Deaf and Blind in Great Falls ("MSDB"). She was tested and found to be of above average intelligence. Her initial Individualized Educational Program ("IEP"), dated April 8, 1983, called for part-time placement at MSDB, emphasizing language, speech and communication development, and part-time placement at the Centerville School, for non-academic courses and activities, for the 1983-1984 school year, D.S.'s first grade year.

5. In February, 1984, an IEP recommending full-time placement at MSDB was developed. D.S.'s parents disagreed with the recommendation. D.S. continued in a "split" placement during the first semester of the 1984-85 school year.

6. Beginning in January, 1985, D.S. began attending Centerville Schools full-time. Her parents had unilaterally removed D.S. from the part-time placement at MSDB. The parents retained a language tutor to work with D.S. on expressive and receptive communication. The tutoring began in January, 1985 and was conducted at the tutor's home in Great Falls for approximately one hour per day.

7. In August, 1985, an IEP was developed which called for all instruction to be provided at Centerville Schools, with the off-site tutoring to continue. This IEP was an accommodation to the parents' refusal to agree to any placement at MSDB; the Child Study Team recommendation continued to be for full-time placement at MSDB.

8. In January, 1986, an IEP was developed which was premised on full-time enrollment at MSDB for D.S.. The parents objected and due process hearing procedures were invoked.

9. To the present, D.S. has continued to attend Centerville Schools and receive off-site tutoring, under what has been termed an "extended interim" IEP, dated November 4, 1986.

10. Child Study Team ("CST") evaluations and recommendations consistently have recognized the need for an IEP which can facilitate D.S.'s development of a language base and enhance her communication skills.

11. Observation of D.S. by the teachers in whose classrooms D.S. was placed for the 1986-87 and 1987-88 school years indicate that D.S. lacks the communication skills necessary to derive any significant benefit in the regular classroom environment.

12. D.S. has demonstrated an inability to make satisfactory progress in subject areas requiring a mastery of course content, such as science, social studies, and reading, due to her lack of a language base.

13. D.S. has demonstrated an ability to spell memorized words correctly, but cannot use most words properly in a sentence due to a lack of conceptual understanding.

14. D.S. has demonstrated an ability to recognize parts of speech, but cannot express herself satisfactorily in writing.

15. D.S. has difficulty in being understood when speaking; her speech is unintelligible to barely intelligible to others.

16. D.S. has demonstrated an ability to do math computation, but cannot solve math story problems satisfactorily due to her lack of a language base.

17. The presence of D.S. in the regular classroom has materially reduced the quality and quantity of time that can be given to nonhandicapped children in the classroom by the classroom teachers and at times has disrupted the class, affecting adversely the educational experiences of nonhandicapped children.

18. The Centerville Schools have endeavored to devise a grading system applicable to Danielle that is nondiscriminatory. Grades D.S. has received do not necessarily reflect her academic achievements and do not permit an accurate comparison with the achievement of her nonhandicapped peers.

19. The Centerville Schools recommended that D.S. be retained in grade four due to her inability to master fourth grade work. D.S.'s parents insisted that D.S. be advanced to grade five for the current 1987-88 academic year.

20. During the past two years D.S.'s educational program has entailed regular classroom work in math, spelling, art, music and band. D.S. is assisted by a personal tutor/interpreter in the classroom for science and social studies. D.S. also receives daily one-on-one language and reading tutoring from a certified deaf educator at the educator's home in Great Falls, which is paid for by the Centerville Schools.

21. At the Centerville School D.S. has been using hearing aids in conjunction with a Telex FM auditory trainer.

22. Recent third-party auditory assessments show D.S. has extremely poor receptive communication skills via auditory, speechreading and, in some instances, with key work written cues, and that D.S. has substandard receptive vocabulary skills.

23. Recent third-party assessments of D.S.'s educational achievement show D.S. is functioning with a severe discrepancy in reading, and scores below norms in mathematics, written language, knowledge and skills.

24. Diagnostic evaluations of D.S. dating from April, 1983 through April 7, 1988, show that although D.S. has above-average intelligence and great potential notwithstanding her handicap, she has not made acceptable educational progress.

25. Deaf education methods employing "oral communication" and "total communication" both have their adherents. D.S., at this time, has not received a structured education in either one and "total communication" methods appear to offer her the most promise.

26. D.S. has not received an "appropriate" education, i.e., one from which appreciable educational benefits have been realized, while enrolled full-time at the Centerville Schools under a series of IEP's.

27. At present, given the nature and severity of her handicap, D.S.'s education in the regular classroom, with the use of supplementary aids and services, cannot be achieved satisfactorily.

28. The Centerville Schools lack the resources, financial and professional, to provide D.S. an appropriate education, much less an education incorporating optimal elements.

29. The Montana School for the Deaf and the Blind is equipped and staffed to provide the educational services D.S. needs and, placed there, D.S. could receive an appropriate education.

From the foregoing Findings of Fact, the Hearing Officer draws the following:

CONCLUSIONS OF LAW

1. D.S. is entitled to a free, appropriate public education and, to the maximum extent appropriate, is entitled to receive that education with children who are not handicapped.

2. The primary objective of the Education for All Handicapped Children Act, and complementary State law, is to ensure that handicapped children receive an appropriate education.

3. While the applicable laws express a preference for educating handicapped children in regular classes, where education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily, that preference must give way.

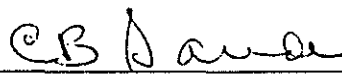
4. The Individual Educational Program proposed by the Centerville Schools, which calls for D.S.'s placement at the Montana School for the Deaf and the Blind, is in compliance with applicable federal and state laws.

Based of the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer issues the follow Order:

1. That D.S. be enrolled at the Montana School for the Deaf and the Blind for the 1988-89 school year.

2. That a Child Study team, which will include a representative of the Centerville Schools and a representative of the Montana School for the Deaf and the Blind, along with other appropriate members including D.S.'s parents, convene prior to the start of the 1988-89 academic year to formulate and implement an Individual Educational Program for D.S. consistent with the Conclusions drawn herein, and the EAHCA.

DATED this 3 day of April, 1988.



Hon. C.B. Sande
Hearing Officer

CERTIFICATE OF SERVICE

This is to certify that on the 4th day of May, 1988, a true and exact copy of the foregoing Findings of Fact and Conclusions of Law and Order was mailed, postage prepaid, to:

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